

ID: CCA_2013082911411701

Third Party Communication: None

UILC: 6229.00-00

Date of Communication: Not Applicable

Number: **201402009**

Release Date: 1/10/2014

From: [REDACTED]

Sent: Thursday, August 29, 2013 11:41:18 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Another grounds for disallowance on

We can issue an FPAA if any partner's section 6501 statute is open. If it is open due to a Form 872, the Form 872 must specifically reference partnership items as required by section 6229(b)(3). Since about 2008, the standard Form 872 contains such language. This issue is addressed in the attached Chief Counsel Notice on page 10.

In short, section 6501(a) provides the period of limitations for assessing any tax imposed by Title 26 of the United States Code, including tax attributable to partnership and affected items. See Bufferd v. Commissioner, 506 U.S. 523, 527 (1993). This period runs from the filing date of an actual tax return rather than from the filing date of a pass-through entity information return [such as a partnership return]. Id. As referenced in section 6501(n), section 6229 merely extends each partner's section 6501 period. Section 6229(a) provides that each partner's section 6501 assessment period for tax attributable to partnership and affected items shall not expire before the date that is three years after the later of the date on which the partnership return for the taxable year was filed, or the last day for filing the return for that year (determined without regard to extensions). Rhone-Poulenc Surfactants & Specialties, L.P. v. Commissioner, 114 T.C. 533, 542-43 (2000); Curr-Spec Partners, L.P. v. Commissioner, 579 F.3d 391, 396-97 (5th Cir. 2009); AD Global Fund, LLC v. United States, 481 F.3d 1351, 1354-55 (Fed. Cir. 2007); Andantech L.L.C. v. Commissioner, 331 F.3d 972, 976-77 (D.C. Cir. 2003). Thus, section 6229 operates only to extend a partner's section 6501 period. Id. It does not shorten the partners' otherwise applicable period for assessment.

So if any partner's section 6501 period is open for partnership items, we may issue an FPAA that is binding on that partner. I.R.C. 6226(d)(1)(A).